Calendar No. 112

100TH CONGRESS
1st Session

SENATE

REPORT
100-52

AUTHORIZING APPROPRIATIONS FOR THE FEDERAL ELECTION COMMISSION FOR FISCAL YEAR 1988

MAY 6 (legislative day, APRIL 21), 1987.—Ordered to be printed

Mr. FORD, from the Committee on Rules and Administration, submitted the following

REPORT

[To accompany S. 1140]

The Committee on Rules and Administration, having considered an original bill (S. 1140) to authorize appropriations for the Federal Election Commission for fiscal year 1988, reports favorably thereon and recommends that the bill do pass.

PURPOSE OF THE BILL

The bill would authorize appropriations for the Federal Election Commission for the fiscal year ending September 30, 1988, in the amount of $14,174,000. The Commission's appropriated funds for fiscal year 1987 totaled $12,800,000, the base level budget recommended by the Office of Management and Budget.

The FEC's fiscal year 1988 agency request was in the amount of $14,174,000, the amount recommended by the Office of Management and Budget, however its original base level request was $14,332,500. The sum of $14,174,000 is a 10.7 percent increase over last year's authorization. Most of this increase is attributed to the 1988 Presidential election campaigns and the new pension requirements.

COMMITTEE HEARING

At a hearing April 22, the committee received testimony on the fiscal year 1988 budget request.

In testimony before the committee, Commission witnesses explained that the 10.7 percent increase in their budget and a staff increase of 13 full-time positions would enable them to meet the

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special demands of the 1988 Presidential election year, including elections to the House and Senate, and to complete their recapture of the 1986 election data not previously computerized. They further explained that 76 percent of the increase represents their estimate of what it will cost to maintain their current level of activity, covering fixed costs, the 3 percent mandated salary increase, the cost of the new retirement program, and allowing for inflation of the cost of equipment rentals and supplies.

The Commission anticipates that as many as 18 to 20 candidates will qualify for Federal matching funds in the 1988 Presidential campaign (the first since public funding was enacted not to include an incumbent President), as compared to 11 in 1984 and 10 in 1980, greatly increasing their workload.

It was pointed out that the Commission's base level request anticipates no change in current law. Should changes be adopted by Congress, additional funding may be necessary.

The committee addressed the question of the Commission's pursuit of complaints of criminal activity in political campaigns. When a complaint is filed, certain procedural steps have to be taken, and the Commission agreed that in many cases it does not get the election law violation resolved either at their own agency or through the court process in a timely fashion due to the procedural requirements of the act. It was suggested that in its deliberations on possible changes in the election law, the committee might deal with this area.

Cost estimates, both administrative and for candidate funding, for implementation of S. 2, pending before the committee, were provided by the Commission.

The committee noted that the percentage of taxpayers using the checkoff has been declining, leaving a smaller reserve of public funds for financing Presidential campaigns. This may require pro rata proportional payouts to the candidates involved. If the proposed congressional election campaign finance reform bills are enacted into law, increasing the checkoff from $1 to $2, this may result in even less taxpayer participation.

Committee Action

The committee met on April 29, 1987, with Senators Ford, Pell, Byrd, Inouye, DeConcini, Moynihan, Dodd, Adams, Stevens, Hatfield, and Garn present. By unanimous vote, the committee ordered reported the accompanying original bill authorizing $14,174,000 for the FEC for fiscal year 1988.

Cost Estimate

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the estimate of costs of this measure prepared by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act, is as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 30, 1987.

Hon. WENDELL H. FORD,
Chairman, Committee on Rules and Administration, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for a bill to authorize appropriations for the Federal Election Commission for fiscal year 1988.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

EDWARD M. GRAMLICH,
Acting Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: Not yet assigned.

2. Bill title: A bill to authorize appropriations for the Federal Election Commission for fiscal year 1988.

3. Bill status: As ordered reported by the Senate Committee on Rules and Administration, April 29, 1987.

4. Bill purpose: The bill authorizes the appropriation of $14.2 million to the Federal Election Commission for fiscal year 1988. The 1987 budget authority is currently $12.8 million, and the President has requested $14.2 million for 1988.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1988	1989	1990	1991	1992
Authorization level	14.2				
Estimated outlays	12.8	1.4			

Including outlays from prior years' appropriations to date, total outlays in 1988 would be about $14.0 million, assuming appropriation of the authorized amount.

The costs of this bill fall within budget function 800.

Basis of estimate: This estimate assumes the amount authorized will be appropriated. The estimate of outlays is based on historical spending patterns.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: None

9. Estimate prepared by: James Hearn.

10. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

REGULATORY IMPACT EVALUATION

FEDERAL ELECTION COMMISSION,
Washington, DC, April 17, 1987.

Hon. WENDELL H. FORD,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your letter of April 14 on behalf of the Committee, requesting information in connection with the Federal Election Commission's Fiscal Year 1988 authorization request. Enclosed are responses to four questions dealing with the regulatory impact of Commission activities.

Sincerely,

THOMAS J. JOSEFIAK,
Vice Chairman.

Enclosures.

Question 1. An estimate of the number of individuals and businesses to be regulated by the Commission, and a determination of the groups and classes of such individuals and businesses.

Answer. The Commission regulates seven categories of persons and political committees: Presidential candidates and committees; candidates and committees engaged in races for House and Senate seats; party-related committees; non-party related political committees; individuals or committees making independent expenditures; delegates and delegate committees; and persons making expenditures for communication costs. The table which follows indicates the number of filers in each category, the number of reports and statements filed by each, and the gross receipts and expenditures for the period covering calendar year 1986.

SUMMARY OF DISCLOSURE FILES

	Total filers existing in 1986	Filers terminated as of Dec. 31, 1986	Continuing filers as of Dec. 31, 1986	Number of reports and statements in 1986	Gross receipts in 1986	Gross expenditures in 1986
Presidential	328	14	314	771	$2,366,751	$2,834,739
Candidates	171	2	169			
Committees	157	12	145			
Senate	926	139	787	4,232	178,456,620	200,118,182
Candidates	454	92	362			
Committees	472	47	425			
House	4,393	867	3,526	21,162	205,348,851	209,878,458
Candidates	2,219	602	1,617			
Committees	2,174	265	1,909			
Party [1]	490	43	447	3,936	297,976,679	284,216,764
Delegates	11	7	NA	20	0	62
Nonparty	4,591	434	4,157	42,039	206,960,774	234,841,024
Labor committees	419	35	384			
Corporate committees	1,901	157	1,744			
Membership, trade and other committees	2,271	242	2,029			
Communication cost filers	15	NA	NA	256	NA	1,985,518

SUMMARY OF DISCLOSURE FILES—Continued

	Total filers existing in 1986	Filers terminated as of Dec. 31, 1986	Continuing filers as of Dec. 31, 1986	Number of reports and statements in 1986	Gross receipts in 1986	Gross expenditures in 1986
Independent expenditures by persons other than political committees	7	NA	NA	10	NA	622,972

[1] Party financial figures are inflated by about 40 percent due to double reporting by some national level party committees.

Question 2. The Commission's opinion as to the economic impact of such regulations on the individuals, consumers and business affected.

Answer. The Act is so specific in its requirements that the major economic impact on affected individuals and organizations is directly imposed by the Act, not the implementing regulations.

Question 3. The Commission's opinion of the impact on the personal privacy of the individuals affected.

Answer. Because a purpose of the Federal Election Campaign Act is to provide for the disclosure of contributions and expenditures made in campaigns for Federal office, there is obviously some impact on privacy. Congress felt that this slight impact on privacy was warranted in order to promote the policy of disclosure. Again, it is the Act, rather than implementing regulations, which produces this result.

Question 4. A determination of the amount of additional paperwork that will result from regulations to be promulgated by the Commission during Fiscal Year 1988. This determination may include, but need not be limited to, estimates of the amount of time and financial costs required of affected parties, showing whether the effects of the authorization request could be substantial, as well as reasonable estimates of the recordkeeping requirements that may be associated with the authorization.

Answer. Two sets of regulations have become effective during FY 1987:

Standards of Conduct for Commissioners and Employees.

Contributions by Persons and Multi-candidate Committees.

Regulations that the Commission expects to promulgate during the remainder of FY 1987 include the following areas:

Public Financing of Presidential Primary and General Election Candidates.

FOIA Fee Schedules.

As in the past, the Commission has placed a high priority on the reduction of unnecessary paperwork in its regulations revisions. This has been a major goal of the projects mentioned above, to avoid burdensome requirements for the regulated community. The Commission is also continuing its systematic review of the regulations in FY 1987 and 1988. (See enclosed memorandum regarding status of regulations projects.)

[Federal Election Commission Agenda Document No. 87-41, Apr. 9, 1987]

MEMORANDUM

To: The Commission.

Through: John C. Surina, Staff Director.

From: Lawrence M. Noble, Acting General Counsel; Susan E. Propper, Assistant General Counsel.
Subject: Updated Status of Regulations Projects.

This memorandum reflects the status of regulations projects currently ongoing as of April, 1987 and outlines what matters we would expect to present to the Commission in the remainder of this fiscal year. It also indicates which projects have been completed since the last memorandum was circulated.

1. 11 CFR parts 106, 9001 et seq. and 9031 et seq. (primary and general election public financing)

The comment period on the Commission's Notice of Proposed Rulemaking, as extended, ended on October 20, 1986. A public hearing was held on December 3, 1986. At several subsequent meetings the Commission has discussed the comments, the testimony, and the issues presented. Currently, we are completing work on the final version of these regulations and beginning to draft the Explanation and Justification.

2. 11 CFR part 100 (bank loans to candidates and political committees)

The bank loan issue was raised for public comment in the Title 26 Notice of Proposed Rulemaking, published on August 5, 1986. In December, 1986 OGC staff members met with representatives from the Comptroller of the Currency and the Federal Deposit Insurance Corporation to discuss this area. A second comment period on the bank loan questions ended on February 23, 1987. We have received no requests to testify at the Commission's public hearing scheduled for March 11, 1987, and we have cancelled the hearing. The Office of General Counsel will draft recommendations for further Commission consideration on these proposals.

3. 11 CFR 110.3–110.6 (affiliation and earmarking)

The Commission published a Notice of Proposed Rulemaking on these rules on July 30, 1986. Three witnesses testified at the Commission's public hearing on September 17, 1986. We are now reviewing the comments received and are following up on some additional research, including the suggestions made at the hearing. We expect to have a document ready for Commission consideration by late spring.

4. 11 CFR 110.14 (delegates)

The Commission approved a Notice of Proposed Rulemaking for the delegate selection regulations on February 26, 1987. The comment period on the Notice ended on April 3, 1987. Although a public hearing was set for April 22, 1987, the Commission received no requests to appear.

5. 11 CFR part 4 (Freedom of Information Act regulations)

We are drafting a Notice of Proposed Rulemaking to implement several amendments to the Freedom of Information Act recently enacted by Congress. This document will be circulated to the Com-

mission in April, as the Office of Management and Budget has just issued final guidelines as required by the legislation.

6. 11 CFR part 111 (compliance procedures)

A draft Notice of Proposed Rulemaking is in nearly final form on this project. We will prepare it for circulation when other higher priority projects are closer to completion.

7. National Right to Work Committee—Petition for rulemaking

A petition for rulemaking was received from the NRWC in late February, 1987. The petition raises questions regarding the Commission's regulations at 11 CFR 114.3 and 114.4. We have treated the receipt of this petition in a routine manner by preparing a Notice of Availability for Commission consideration. This notice will be on the agenda for April 23, 1987.

8. Noncorporate creditors

As noted in earlier status reports, this is an area that we have raised for possible inclusion as a new section in Part 110. This project would also include a review of the rules governing corporate creditors at Section 114.10. We are completing work on a first draft of these proposed rules as time permits.

9. 11 CFR parts 102 and 104 (recordkeeping and reporting)

We continue to view this area as a project worthy of revision before the 1988 elections. When the demand of other higher priority projects abates, we will return to our review of these rules and complete preparation of a draft Notice for Commission consideration.

COMPLETED PROJECTS

1. Standards of conduct (ethics regulations)

These regulations were published in final form on September 29, 1986 and became effective on October 29, 1986. A series of training sessions, to acquaint the staff with the new procedures, was conducted in November, 1986.

2. 11 CFR 110.1 and 110.2 (contributions by persons and multicandidate committees)

The Commission transmitted the final regulations and the Explanation and Justification to Congress on January 6, 1987. The 30 legislative days have now elapsed and the regulations became effective on April 8, 1987. Training sessions for FEC staff on these new regulations are scheduled for april 14, 15 and 16, 1987.

Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported by the Committee on Rules and Administration, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman:

SECTION 439c OF TITLE 2, UNITED STATES CODE

SECTION 439C. AUTHORIZATION OF APPROPRIATIONS

There are authorized to be appropriated to the Commission for the purpose of carrying out its functions under this Act, and under chapters 95 and 96 of title 26, not to exceed $5,000,000 for the fiscal year ending June 30, 1975. There are authorized to be appropriated to the Commission $6,000,000 for the fiscal year ending June 30, 1976, $1,500,000 for the period beginning July 1, 1976, and ending September 30, 1976, $6,000,000 for the fiscal year ending September 30, 1977, $7,811,500 for the fiscal year ending September 30, 1978, [and] $9,400,000 (of which not more than $400,000 are authorized to be appropriated for the national clearinghouse function described in section 438(a)(10) of this title) for the fiscal year ending September 30, 1981, *and $14,174,000 for the fiscal year ending September 30, 1988.*

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